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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,515	02/07/2005	Hideo Ando	008312-0311886	1198
909 7590 07/08/2008 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER				
DINH, TAN X				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/507,515

Applicant(s)

ANDO ET AL.

Examiner

TAN X. DINH

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1) Applicant's election with traverse of Group I (claims 1-3) in the reply filed on 5/09/2008 is acknowledged. The traversal is on the grounds that " the application may be searched and examined without a serious burden ". This is not found persuasive because:

As indicated in last Office action, this instant application is directed to three distinct inventions, namely Groups I, II and III. Under PCT Rule 13.1, they lack the same or corresponding special technical features since the invention of Group I does not require the features of first/second additional writing and overwriting as claimed in Group II or detecting and correcting error of data as claimed in Group III. The search and consideration for all three Groups would be triples for examiner. In another words, the search and examination for all three Groups would be serious burden to examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claims 4-12 are withdrawn from further consideration by the examiner.

2) This application is a 371 of PCT/JP03/03102, filed on 3/14/2003.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) or (f). The certified copy of the priority documents have been received in this National Stage Application from the International Bureau (PCT Rule 17.2(a)).

The foreign document identifies as:

JAPAN 2002-72925, filed on 3/15/2002.

JAPAN 2003-29078, filed on 2/26/2003.

3) The amendment/preliminary amendment filed 9/14/2004 is acknowledged.

4) The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested:

**OPTICAL RECORDING MEDIUM HAVING LAND AND GROOVE OF
SYNCHRONOUS STRUCTURE WOBBLE.**

5) The I.D.S. filed 9/14/2004; 4/07/2005; 9/08/2006; 2/09/2007 and 8/01/2007 have been considered by the Examiner. However, the Japan and/or foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form PTO-1449 or PTO/SB/08 is(are) attached herein.

6) The drawings are objected to under 37 CFR 1.83(a). The

drawings must show every feature of the invention specified in the claims. Therefore, the two lands adjacent to both sides of the groove in a wobble address region has the synchronous structure (claim 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended”. If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d).

If the changes are not accepted by the examiner, the applicant

will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

8) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10) Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by INUI et al (5,933,411).

INUI et al discloses an information storage medium as claimed in claim 1, having tracks characterized in that information is recorded,

the tracks being formed as a groove and a land, wherein the groove has a synchronous structure in which wobbles are formed on both walls of the groove and synchronized with each other, and the

land has an asynchronous structure in which wobbles formed on both walls of the land are a synchronized with each other (Fig.13, groove 101 has a synchronous structure in which wobbles are formed on both walls and land 102 has an asynchronous structure in which wobbles formed on both walls).

11) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13) Claims 2 *and* 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over INUI et al (5,933,411).

INUI et al discloses all the subject matter as claimed in claim 2, *except that* the wobble addresses can be allocated on a plural regions on both walls of grooves during modulation *rather than* on odd and even regions (see column 1, lines 34-37). However, the purpose of wobbling the groove is used for making address information, during modulation process the wobble address can be selective formed on any desirable regions on both walls of the grooves. Obviously, anyone of ordinary skill in the art at the time of the invention was made would have been motivated to select odd and even regions for wobble addresses as claimed.

As to claim 3, Official Notice is taken that the optical recording medium having land of synchronous structure in which wobble formed on both walls are widely used in the art, and therefore they are old and well known. It would have been obvious to use the old and well known land synchronous structure wobble in optical recording medium such as INUI et al's because, in the absence of any new or unexpected result, selecting of a known material/element based on its suitability for the intended use is deem obvious. In re LESHIN, 125 USPQ 416.

14) Claim **1** is further rejected under 35 U.S.C. 102(b) as being anticipated by **FUJITA et al (6,590,844)**.

FUJITA et al discloses an information storage medium as claimed in claim 1, having tracks characterized in that information is recorded,

the tracks being formed as a groove and a land, wherein the groove has a synchronous structure in which wobbles are formed on both walls of the groove and synchronized with each other, and the land has an asynchronous structure in which wobbles formed on both walls of the land are a synchronized with each other (Fig.2, grooves G1-G4 have a synchronous structure in which wobbles are formed on both walls and lands L1-L4 has an asynchronous structure in which wobbles formed on both walls).

15) Claims **2 and 3** are rejected under 35 U.S.C. 103(a) as being unpatentable over **FUJITA et al (6,590,844)**.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over FUJITA et al with the same reasons applied in paragraph (13) above.

16) Claim **1** is further rejected under 35 U.S.C. 102(e) as being anticipated by **KONDO et al (6,693,873)**.

KONDO et al discloses an information storage medium as claimed

in claim 1, having tracks characterized in that information is recorded,

the tracks being formed as a groove and a land, wherein the groove has a synchronous structure in which wobbles are formed on both walls of the groove and synchronized with each other, and the land has an asynchronous structure in which wobbles formed on both walls of the land are a synchronized with each other (Fig.17, grooves G1-G4 have a synchronous structure in which wobbles are formed on both walls and lands L2 and L3 has an asynchronous structure in which wobbles formed on both walls. See also figures 11 and 18 for Land and Groove structure).

17) Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over KONDO et al (6,693,873).

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over KONDO et al with the same reasons applied in paragraph (13) above.

18) Claim 1 is further rejected under 35 U.S.C. 102(e) as being anticipated by ICHIMURA et al (6,882,616).

ICHIMURA et al discloses an information storage medium as claimed in claim 1, having tracks characterized in that information is recorded,

the tracks being formed as a groove and a land, wherein the groove has a synchronous structure in which wobbles are formed on both walls of the groove and synchronized with each other, and the land has an asynchronous structure in which wobbles formed on both walls of the land are a synchronized with each other (Fig.10, groove G have a synchronous structure in which wobbles are formed on both walls and land L has an asynchronous structure in which wobbles formed on both walls).

19) Claims 2 *and* 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over ICHIMURA et al (6,882,616).

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over ICHIMURA et al with the same reasons applied in paragraph (13) above.

20) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form **PTO-892** is attached herein.

21) Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TAN Xuan DINH** whose telephone number is **571-272-7586**. The examiner can normally be reached on **MONDAY-FRIDAY** from **8:30AM** to **5:30PM**.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the **Patent Application Information Retrieval (PAIR)** system. Status information for published applications may be obtained from either **Private PAIR** or **Public PAIR**. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197** (toll-free).

/TAN Xuan DINH/
Primary Examiner, Art Unit 2627
July 3, 2008